

DAVID LEE MILLER

10/21/2019

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
SHREVEPORT DIVISION

MAGNOLIA ISLAND PLANTATION, L.L.C., BARBARA MARIE CAREY LOLLAR	:	CIVIL ACTION NO. 5:18-cv-01526
VERSUS	:	DISTRICT JUDGE ELIZABETH FOOTE
LUCKY FAMILY, L.L.C., W.A. LUCKY, III, AND BOSSIER SHERIFF JULIAN C. WHITTINGTON, IN HIS OFFICIAL CAPACITY	:	MAGISTRATE JUDGE KAREN HAYES

DEPOSITION OF DAVID LEE MILLER

October 21, 2019

Reported By:  
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EXHIBIT 1

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1 affects the date you choose other than service  
2 and publication?

3 A. There could be a number of things.  
4 There may be a bankruptcy filing. And in that  
5 case, we would contact the plaintiff's attorney,  
6 let them know that we had received it. Sometimes  
7 we'll get a call from the plaintiff's attorney  
8 putting the suit on hold for whatever reason.

9 Q. What role do appraisals have in this  
10 process?

11 A. Appraisals, if it's -- if those writs  
12 are received and they're with benefit of  
13 appraisement, then when we serve a notice of  
14 seizure. We also serve a notice of appraiser.  
15 Appoint an appraiser. And then the plaintiff and  
16 the defendant both get an opportunity to provide  
17 us with appraisers' names.

18 Q. So you'll receive an appraisal -- or  
19 you provide the opportunity -- excuse me. Strike  
20 that.

21 You provide the opportunity for both  
22 the plaintiff and the other party to submit  
23 appraisals?

24 A. That's right.

25 Q. And if both parties submit those, what

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1 happens next?

2 A. If they both submit and there's a  
3 greater difference than 10 percent between the  
4 two appraisals, then a referee appraisal has to  
5 be gotten.

6 Q. Define referee appraisal.

7 A. Well, it's the third appraisal that we  
8 would use to create the beginning bid.

9 Q. Why is it referred to as a referee  
10 appraisal?

11 A. No particular reason. A third  
12 appraisal is what it's called sometimes.

13 Q. You said that this third appraisal or  
14 referee appraisal comes into play when there is a  
15 more than 10 percent difference between the first  
16 two appraisals. Correct?

17 A. Correct.

18 Q. What is the purpose of the third  
19 appraisal?

20 A. The third appraisal takes the place of  
21 the average between the other two.

22 Q. I understand what it does. I guess I'm  
23 asking what its purpose is.

24 A. Well, you take -- well, there's the  
25 average appraisal between the first two or the

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1 This is an e-mail dated September 17, 2018, also  
2 from Kim to Mr. Shelton. If you would take a  
3 look at that real quick.

4 A. Okay.

5 Q. Okay. Kim is asking Mr. Shelton for a  
6 third appraiser; is that correct?

7 A. Yes.

8 Q. Earlier you said it was the sheriff's  
9 office that chooses the third appraiser.

10 A. Yes.

11 Q. But this is the judgment creditor's  
12 attorney being asked to choose. Correct?

13 A. Yes.

14 Q. What was the reason for that deviation  
15 in this suit?

16 A. Because of the highly technical  
17 appraiser that we needed.

18 Q. Explain that to me a little more so  
19 that we can discuss it.

20 A. Well, an appraiser that would appraise  
21 an instrument like this is not -- they have to  
22 have certain credentials to be able to do that.

23 Q. And you're referring to the promissory  
24 note. Correct?

25 A. Yes.

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1 Q. Mr. Curtis Shelton.

2 A. And that's also who I call the  
3 plaintiffs' attorney?

4 Q. That's correct, I believe.

5 A. There's going to be a great deal of  
6 communications in there with the plaintiffs'  
7 attorney.

8 Q. Okay. And so did the sheriff's office  
9 provide any background information to Mr. Lacour  
10 for him to make his appraisal?

11 A. I don't know.

12 Q. Who would know that?

13 A. Ms. Flournoy.

14 Q. Did you see any indication in the file  
15 that you reviewed that the sheriff's office  
16 provided any information to Mr. Lacour for the  
17 purpose of his appraisal?

18 A. Not that I recall.

19 Q. Did the sheriff's office hire  
20 Mr. Lacour?

21 A. Can you rephrase the question? I don't  
22 understand the question. Did we hire him?

23 Q. Did you retain Mr. Lacour?

24 A. Define retain. I mean, was there a  
25 contract between us? Not that I know of.

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1 Q. Was there any correspondence between  
2 the sheriff's office and Mr. Lacour requesting  
3 that he serve as the sheriff's appraiser?

4 A. I'm not sure. I don't know.

5 Q. Did you see any correspondence in the  
6 files that you reviewed between the sheriff's  
7 office and Mr. Lacour requesting that he serve as  
8 the sheriff's third appraiser?

9 A. Not that I recall.

10 (Miller Deposition Ex. 10 was  
11 marked for identification.)

12 Q. (BY MR. POWELL) This is Exhibit 10.  
13 This is entitled Appraisement Sheet signed by  
14 Mr. Chad Garland. Are you familiar with this  
15 document?

16 A. This form. Yes.

17 Q. You're familiar with the form. Are you  
18 familiar with who Mr. Garland is in this matter?

19 A. He is the appraiser for the plaintiff.

20 Q. That's correct. That's what it says  
21 there. Have you reviewed this document before?

22 A. I believe I reviewed it in the file.

23 Q. Does this appear to be a correct copy  
24 of that document?

25 A It appears

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1       earlier -- okay. I'll move along.

2       Q. (BY MR. POWELL) You did say earlier  
3       that the appraisers should do their job. Right?

4       A. That's right.

5       Q. That's what they're for, is you provide  
6       them with certain information, but then they do  
7       their job?

8       A. That's correct.

9       Q. Okay. Would it be -- would the  
10       sheriff's office provide the appraiser -- would  
11       it be the sheriff's office role to provide the  
12       appraiser with other appraisals on the property?

13       A. No, sir.

14       Q. Okay. Would it be the sheriff's office  
15       role to provide the appraiser with any opinion  
16       the sheriff's office has about the value of the  
17       property?

18       A. To the appraiser?

19       Q. Yes.

20       A. No.

21       Q. Okay. Would it be the sheriff's office  
22       role to tell the appraiser what he should and  
23       shouldn't consider in doing his appraisal?

24       A. No.

25       Q. Okay. And Mr. Shelton went through the